1942.

File No. B.R.T.A Bij/42

Legal **DEPARTMENT**

A **BRANCH**

K

Subject

p 59(E)
1942

Appeals to the Bombay Revenue Tribunal from the - Bijapur District

"True copy - Original papers being of bad quality - Destroyed."

K Melankar
Superintendent,
D Branch, Legal Department.

File No. B.R.T.A. Bij/42

Std. Sectt. Slip 24-B

CONTENTS

Legal-Department File No. B.R.T.A. Bijapur /1942

Sr. No.	Compilation No.	Subject	Pages
		Appeals — Bom. Revenue Tribunal	
1	Memo. of Instructions.	Balvant Bhimrao Patil vs. Irangonda Buddangonda Patil	1-12
2	Memo. of Appeal and accompaniments	—do—	13-17
3	Rev. Tr. Order No. 0/192 of 1941 dt. 16-7-41	Appeal against order No. W.T.P. 6701 dt. 17-12-1940	18-66
4	Chronological Statement of Facts— O. No. 10225 dt. 23-12-42	Appeal by Malhar-bhat Banabhat Pujari.	67-70

This relates to an application for review of an order passed by the Bombay Revenue Tribunal. The relevant facts are briefly as follows: The village of Mumaradikop is an unsettled Inam village of Class II. The Patilki watan, together with the five kadim Patilki watan lands, were held originally by (1) Mallawa, widow of Budangowda and (2) Hanmantgowda. In 1846, Mallawa relinquished her 8 annas share of the watan to Hanmantgowda. The latter, who had no male issue, sold the watan lands, house, and right of service to Bala Appaji by a sale deed dated 20th December 1855. Bala, the purchaser, submitted to Government a Kabulayat on 18-11-1856 agreeing to enjoy the lands, pay judi and perform services during the life time of the said Hanmantgowda or till Government resumes. The watan was accordingly given to him on the condition mentioned by him. The watan register prepared in 1870 mentions Balaji Appaji as the person having the right of service and states that there are no hissedars or taximS.

2. A watan Register was framed, apparently for the first time under the Watan Act, in the year 1888. The Assistant Collector Mr. Harvey then held that the sale of the watan was illegal, and negatived the claim of the purchaser's family to serve; he directed the entry in the watan register of the following persons as representative watandars -- Budangowda adopted son of Budangowda and (2) Bhagawa kom Basangowda, grand-daughter of Hanmantgowda, to serve in

* File III p.25.

\+ -do- p.33

@ File I, p.241

£ -do- p.249

% -do- p.11

** -do- p.29

successive periods of 5 years each. Gururao Balaji having appealed, the Collector on 4-5-1891 confirmed that order. No directions were given in these orders regarding the watan lands.

* File 1, p.33 - slip N

3. It appears that in about 1900, the watandar Bhagawa applied for restoration of the watan lands, and the Assistant Collector, in his order dated 30th October 1900 said:@

@ -do- p.62. slip Q

> "It is stated that in 1888, Mr. Harvey the Asstt. Collector ordered that the Officiator should be paid scale potgi out of the profits of the land.
>
> This compromise appears to be agreeable to both parties and seems to me to be the simplest way of settling the case.
>
> The profits are Rs.35/- after deducting Rs.24/- judi paid to Government without disturbing possession of the land, I order that the officiating Patil for the time being should be paid Potgi according to the usual scale from the profits of the lands now in possession of the opponent."

Accordingly the Collector on 15/6/1901 ordered@@ that Rs.22/8 out of the profits of the land should be paid as remuneration according to the scale.

@@ -do- p.63

4. It appears that the watandars made further applications in 1915 and 1918 for restoration of the watan lands, but these were rejected.+

-do- pp.73-75

5. In 1936, Irangowda Budangowda, made a fresh application for restoration of the lands under sec. 9(1) of the watan Act. The Prant Officer having declined to take action, the applicant went up in appeal, whereupon the Collector held that though restoration of the lands under sec. 9(1) was not called for, the

+ -- pp.12-1-42

M.21-22. of 7411 -slip 5

† Hf 45-47 of BRTfile 716/41
slip 7-

v Slip K. —do—

@ File IV, p.1. -slip P

question of levying rent under sec.9(2) may be considered. The Prant Officer, on recording evidence, found that the case did not fall under sec. 9(2). On appeal the Collector† agreed, but ordered that the remuneration of the officiator should be raised to Rs.118/-. Against this order, both the parties appealed to the B.R.T. which modified the order holding that the case fell under Sec. 9, and dismissed the appeals. The appellant Balwant has filed an application@ for review under sec. 7 of the Bombay Revenue Tribunal Act, 1937.

6. The first question for consideration is whether an application for review lies. Sec. 7 of the Act provides that the Tribunal may either of its own motion or on the application of any party interested, review its own decision or order. The section further provides that no such application made by any party shall be entertained unless the tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time its decision was made, or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason. In support of his application the applicant —

(a) avers that he has discovered fresh evidence which was not available to him when the proceedings were before the Collector, and

(b) maintains that the Tribunal erred in not issuing a notice to him before it passed orders.

The averment referred to at (a) is altogether untrue. The fresh evidence comprises a copy of the old watan register which appears to have been compiled in 1870. This document was in fact available to the applicant when the matter was pending before the Collector, and he has referred to it in several applications to the Collector, (e.g. at pp. 433, 441 & 447 of File I) and has also submitted his own translation thereof. (File I,p.455).

The applicant's contention at (b) above rests on the proviso to Regulation 11 of the B.R.T. Regulations. But in this case, the Tribunal had only rejected the appeals. It modified the order of the Collector only in that it held that the case fell under Sec.9 of the Watan Act; and this modification cannot be said to the prejudice of the applicant within the meaning of the said proviso inasmuch as the operative part of the Collector's order was left untouched. The contention, therefore, is without substance.

Thus, if cannot be said that the applicant has discovered fresh evidence, or that there is any mistake or error apparent on the face of the record: and if so, the application is untenable.

slip K

7. The Tribunal's order is dated 16th July 1941; and the application for review was presented on 15th October 1941, on the 91st day from the date of the order. The application, therefore, is barred under sub-section (2) of section 7 of the B.R.T. Act, 1939.

8. On merits, the argument for the applicant is briefly as follows:-- (a) The sale of the watan lands and office made in 1846 by Hanmantgowda in favour of Bala Appa, through whom the applicant claims, was valid in law.

+Geneologies of both families are given in the Order of the Tribunal.

5 17 67

(b) The Watan Register of 1870-73 shows that the applicants ancestors were recognised as the sole representative Watandar Patils of the village.

(c) The present watan register recognising the opponent Irangowda as representative watandar patil, and the orders in the Haq Inquiry of 1888-1891 on which it is based, are all illegal, and the Register should now be revised by the Tribunal.

(d) The applicant in any event is a watandar, and neither of sections 8 or 9 applies to this case.

(e) In any event the order of the Tribunal is incorrect in view of rules contained in G.R. No.7651, dated 28th December 1877.

+ Phadnis - Watan Act Ed 5, Part I p 250.

9. As regards (a), sec. 20 of Bom. Reg. XVI of 1827 provides that the allowances derived by a sole proprietor or occupant of a hereditary district or village revenue office shall in future be considered strictly as the official remuneration of the person filling the office, and as such shall not be subject to alienation by the incumbent. The section has been interpreted to mean that "the lands attached to hereditary offices are entailed estates, the holders of which are simply tenants for life, who cannot alienate or encumber such estates beyond the term of their natural lives". (See Bhimappa vs. Mariappa, 3 B.H.C.R.A.C. 1, 128 at p.130: Krishnarao vs. Rangrao, 4 B.H.C.R., A.Cs. 1, at p. 12-13; Bhagu vs. Byramji, 1892 I.J. 39; Kalu vs. Hanmappa, I.L.R.5 Bom. 435; Padappa vs. Swamirao, I.L.R. 24, Bom. 556 P.C.; Balhu vs. Vyankatesh, 23 Bom. L.R. 799.) Consequently,

the alienation made by Hanmantgowda in 1856 was only valid for his own life-time. It was recognised as such in the Kabulayat executed by the applicant's ancestor in 1856 and the Mamlatdar's order placing him in possession. The effect of the order is that the Collector held that the alienation of the watan property was valid for the alienor's life-time, and appointed the alienee as deputy for the same period under sec. 11 of Act XI of 1843.

The applicant contends, however, that the alienation was valid as it transferred both the office and the property. But it does not appear that in view of the decisions cited above, sec. 20 of Reg. XVI of 1827 is susceptible of that interpretation. The contention that that section only prevents alienations of watan property <u>apart from the office</u> is negatived by Bhagu vs. Byramji, 1892 P.J. p.39, and Padappa vs. Swamirao, I.L.R. 24 Bom. 556 P.C. wherein the property in question had been released from liability in respect of service, and was yet held to be unalienable beyond the term of the holder's life-time. The concluding words of the section are clear that no incumbent could alienate the watan property, and as that property was to be regarded strictly as the remuneration of the office, it follows that the office too was inalienable. Consequently the alienation made by Hanmantgowda was, as against his heirs, void in its inception.

10. The Watan Register of 1870 does not advance the applicant's case. It is true the Register shows the applicants' ancestors as having the right to perform the service. But

the Register is not prescribed by statute and entries therein do not give rise to any legal rights nor raise any presumption. It is only admissible in evidence under Sec.35 of the Evidence Act. It is not clear whether the orders referred to therein were passed after proper inquiries, and whether the fact that Hanmantgowda was dead was known to the revenue authorities. In these circumstances, the Register cannot be said to be evidence that Government recognised the plaintiffs' ancestors as the sole representative watandars. In any event, the circumstance that the Assistant Collector, while framing the watan register and registering the representative Watandars, negatived the claim advanced by the applicant's predecessor in title, to the right to serve, deprives the old register of all significance.

12. As regards (c), the applicant's contention is untenable. The Asstt. Collr. and Collector were clearly right in holding that the sale of 1856 did not convey the right of service. They were entitled also, under sec. 28 of the Watan Act, to ignore the appointments made after 1843. It appears, however, that they did not appreciate fully the effect of sec. 20 of Reg. XVI of 1827 as explained by the decisions of the Sudder Diwani Adalat and the High Court. (see para 8 ante). Else they would have held that as Hanmantgowda was already dead, the alienee had ceased to have any subsisting interest in the watan lands as well and would have taken

steps to resume the lands from him. The present watan Register has stood for over fifty years. Even assuming that the Asstt. Collector was wrong in excluding the alienee from the right of service, the alienee having acquiesced in the decision for over fifty years, cannot now reopen the question. It is pertinent to observe that a suit for a declaration of his right would now be barred by limitation.

11. With regard to the applicant's contention specified at (d), the Tribunal has held that the case is governed by sec. 9 of the Watan Act. The conditions necessary to invite the operation of the sectionare stated succinctly at p.69 of Phadnis' Watan Act. The applicant may possibly contend that the third and fourth conditions mentioned therein are absent in this case. As regards condition (3), although it may be that there were mutations made in the revenue records, it cannot be said that the transfer was made with the Collector's sanction. (see para. 5 of the B.R.T's order. The Register of 1870, too, does not show that there was an order of the Collector sanctioning the transfer). Lastly, his contention that he is a Watandar of the same watan rests on the argument that the sale of 1855 lawfully conveyed to Balaji the entire Watan - property as well as office. This argument has already been met. It may be pointed out further that he cannot be deemed even to be a watandar within the meaning of sec. 4 of the Watan Act, as the sale abovesaid lawfully conveyed to Balaji only a life-interest in the Watan property, and not absolute title therein. Even assuming that the applicant can be held

to be a Watandar, he can be asked to pay contribution under sec. 80/- of the Watan Act.

12. The applicant's contention in para. 8 of the application is equally untenable. It is not a fact that Gururao Balaji is stated in the present Watan Register to be the holder of the Watan. The Register is at p. 65 of File I. Gururao's name appears therein in col. 7 as the Khatedar of the lands as appearing in the Record of Rights. This is correct, as he was allowed to remain in possession of the lands. But his name does not appear either in col. 20 or in col. 22 wherein the names of the watandars are specified. Consequently, the watan register does not support the contention that the applicant is a watandar.

13. The applicant's contention (e) has been fully dealt with in para. 6 of the Tribunal's order. The wording of sec. 9, as well as of sec. 8, is clear that rent or contribution can be levied thereunder to the full extent of the rental valueof the land

14. The G.P., High Court may be requested to appear before the Tribunal and oppose the application on the lines stated above.

15. The R.D. may be requested to forward directly to the G.P.,H.C., the following documents, (English translation if the original be in a regional language) in addition to those mentioned in clauses (a), (b) & (c) of para. 6 of Govt. Circular d/- 16th August 1941 :--

12

(1) Rajinama of Mallawa dated 20-4-1846.	File III	p. 29.
(2) Sale deed executed by Hanmantgowda in favour of Balappa, dated 20-12-1855.	-do-	p. 33
(3) Kabulayat passed by Balappa dated 18-11-1856.	File I	p. 241.
(4) Memorandum from the Mamlatdar of Badami dated 19-11-1856.	-do-	p. 249.
(5) Extract from Watan Register and the G.R. under which it was compiled.	-do-	p. 11.
(6) Asstt. Collr's Order dated 31-10-1888	-do-	p.29.
(7) Collr's Order d/- 4-5-1891.	-do-	p.33.
(8) Application of Bhagawa,.	File II	p.1.
(9) Asstt. Collr's Order d/- 30-10-1900.	-do-	p.21.
(10) Collr's Order	-do-	p.24.
(11) Order of the Asstt. Collr.	~~File I~~	pp.73 and 75
(12) Relevant extract from the Watan Register.	File I	p 65
(13) Asstt. Collr's Order dated 28-8-1937.	—do—	Pp. 89-90
(14) Collr's Order d/- 10-1-1938.	—do—	Pp. 121-122
(15) Asstt. Collr's Order dated 5/5/1939	—do—	Pp. 217-221
(16) Collr's Order dated 17-12-1940.	B.R.T file 76	Pp. 45-47
(17) B.R.T. 0/97, d/- 4th April 1941.	—do—	Pp. 67-70
(18) G.R.R.D. No 7651 dated 28 Dec 1877.		

XX

Rgm.
17/6

A.S. R.R. 18/6

D.S. Regulation 12 of the B.R.T. Regulation 1939 requires the Secy of the Tribunal to communicate the Tribunal's order to the party. Accordingly, the party obtains the order when he receives it from the Secy & does not apply for a certified copy separately. In the present case, for instance, the Tribunal's order was passed on 16-7-41, but a copy was sent by the Secy to

the applicant on 12-8-41. (See page 11 of file IV). The period between 16-7-41 and 12-8-41 falls therefore to be excluded from limitation as being the time requisite for obtaining a copy of the order sought to be reviewed. (See section 12(2) of the Limitation Act 1908, read with section 7(2) of the B.R.T Act 1939) I therefore omit para 7 of P.A's note.

Para 6 is the main technical ground of oppos review

Paras 8 & 13 argue the case on merits, and are on the lines of the order of the B.R.T.

I agree that para 14 & 15 may be done.

RLA.

P.N.W. 20/6

20/6

Memo of Appeal
& Co complts

13

Review petition under section 7 of the Bombay Revenue Tribunal Act of 1939.

In the Court of the Bombay Revenue Tribunal, Bombay.

Applicant: Balavant Bhimarao Patil of Hubli District Dharwar.

Against.

Opponent: Irangouda Buddangouda Patil of Mamaraddikop, Taluka Badami, District Bijapur.

In this, the above named applicant begs to put in the following review petition under section 7 of the Bombay Revenue Tribunal Act against the decision of the B.R.T. No.0/192, dated 16th June 1941, received under No.B.R.T. 716(0/192), dated 12th August 1941, from the Secretary, Bombay Revenue Tribunal, under the following circumstances and on the following grounds :-

(1)The order of the Bombay Revenue Tribunal is contrary to law and evidence in the case.

(2)The Bombay Revenue Tribunal erred in passing the decision without giving notice to the applicant as required by proviso to Bombay Revenue Tribunal Regulation 11.

(3) A copy of the order received from the Bombay Revenue Tribunal produced with this application will show that the Bombay Revenue Tribunal has modified the order of the Collector in asmuch as it has held that the case in question falls under section 9 of the Vatan Act whereas the Assistant Collector and the Collector held that the case would not come under the perview of section 9 of the Hereditary Offices Act. This modification of the order of the Assistant Collector and the Collector without giving an opportunity to the applicant has greatly prejudiced his case. Therefore the order of the Bombay Revenue Tribunal should be reviewed and the applicant be allowed an opportunity to argue his case.

(4)

(4) At the time when proceedings ~~xx~~ were going on before the Assistant Collector and the Collector of Bijapur, the applicant did not know that the then Collector had prepared a Patilki-Vatan Register in respect of the Patilki Watan in question on 3rd February 1870 as required by Government Resolution, Revenue Department, No. 4779, dated 3rd November 1869, in which the Collector recognised the applicant's ancestor Balaji Appaji as sole representative Watandar patil of the village and after his death in 1873 his son Gururao Balaji's name was entered in his place. Subsequently the applicant came to know about this and has obtained the certified copy of the Watan Register which he now produces along with this application. This will show that the applicant's ancestors were recognised as S.R.V. Patil of the village. This document is a fresh piece of documentary evidence which the applicant was not able to produce before the order in review was passed. It is a very important document which will show that the applicant's ancestors were legally recognised as Sole Representative Watandar Patils of the village. This document has a very important bearing - on the question as to whether the applicant is a Watandar of the same Watan or not. Therefore it is requested that a review of the Bombay Revenue Tribunal order in question should be granted.

(5) Moreover, as the order of the Bombay Revenue Tribunal was passed without giving notice to the applicant it appears that several documents and their bearing on the question at issue were either not brought to the notice of the Bombay Revenue Tribunal or considered. This has resulted in a great prejudice to the applicant's case.

(6) The documents produced in the case will show that Section 9 of the Watan Act is not applicable to the facts of the case. The Watan property and the -

Patilki

Patilki right of office were sold by the then sole representative Watandar Hanamantgouda Ningangouda Patil to the applicant's ancestor Balaji Appaji in 1855, by a regular and registered sale deed for consideration. According to the Regulation 16 of 1827 and Act 11 of 1843, the only two enactments about the Watan property then applicable, the sale of the Watan together with the right of office was valid and the applicant's ancestors were watandars according to these enactments. These enactments only provided that the Watan property should go with the office. The vendor informed the Collector of this transfer and the Collector therefore entered the name of the applicant's ancestor in the Watan Register, Alienation Register and Land Register, which are on record. Therefore the Bombay Revenue Tribunal order holding that the case falls under Section 9 of the Watan Act is wrong and needs to be reviewed.

(7) In view of these facts the present watan ~~register~~ register recognising the opponent as representative Watandar Patil of the village is obviously illegal. No doubt it ~~it~~ is based on the decision in the Haq enquiry proceedings held in 1888 at which time these facts and the provisions of Regulation 16 of 1827 and Act 11 of 1843 and the Watan Register of 1870 were not noticed and considered by the then Assistant Collector. That decision is obviously contrary to the provisions of the then law. Also the opponent's ancestors had neither watan lands nor right of office with them at that time. So they were not entitled to be registered as Haqdars, being non-watandars. Therefore it is requested that the Watan Register of 1888 be revised by the Bombay Revenue Tribunal even at this stage as it is obviously illegal.

(8) It is to be noted that though by the order of 888 applicant's ancestor Gururao Balaji's name was eleted from column 22 of the Watan Register his name

was

was allowed to remain in the column 4 of the present Watan Register as the FOLDER OF THE WATAN,. and is continued even to this day. Therefore the applicant is clearly a Watandar of the same watan and Section 9 cannot be held to be applicable to the facts of the case.

(9)As the applicant's ancestor legally acquired the watan property and the right of office by the sale deed of 1855 according to the provisions of the then Watan law and as the order of 1888 dispossessing him only of the right of office is illegal, Tarabai Vs. Murtyacharya's ruling relied upon by the Bombay Revenue Tribunal is not applicable to this case.

(10) As the applicant is a watandar as shown above Section 9 cannot be applied and Section 8 of the Watan Act applies to the facts of the case. As regards the amount of contribution under Section 8 to be levied from the applicant, the rules framed by Government which have the force of law will have to be followed. These rules are the rules framed by Government Resolution No.7651 dated 28th December 1871, given in Survey and Settlement Manual Vol. II page 485. According to rules 1 and 2, the Collector cannot levy from the watan lands more than the difference between the Judi and the assessment as the remuneration of the officiator.Therefore the order of the Collector levying Rs.118/- as remuneration (to the officiator) held by the Bombay Revenue Tribunal, as correct, is illegal as it is more than Rs.35/- the difference between the Judi and assessment in this case.These rules appeared to have been overlooked by the Bombay Revenue Tribunal.If the Collector is not bound by this scale,he may pay the excess from the Government Treasury. He cannot tax the watan land more than the Survey Valuation.

For

For these and among other grounds the applicant prays that the Bombay Revenue Tribunal may be pleased to call for the papers in this case and grant a review of the order of the Bombay Revenue Tribunal in question and after hearing the parties pass an order directing the Collector not to levy from the applicant a sum more than the difference between the Judi and the full assessment on the Watan lands.

Hubli,)
)
Dated 15.10.1941) Sd/- B.B.Patil,
Presented by

Address:
B.B.Patil,
C/O.S.B.Laxmeshwar,
Retired Head Karkun,
Torvigalli, Hubli.

Sd/-
15.10.1941 Pleader

It is further prayed that the Collector of Bijapur may be ordered not to execute his order till this review petition is finally disposed of.

Sd/-
Pleader
15.10.1941.

No.B.R.T.258(Com.S.D.)
Appeal against order No.W.T.P.670
dated 16th December 1940 of the
Collector of Bijapur.

No.O./192 of 1941
Poona,16th July 1941.

Read:-

Appeal petitions, dated 13th March 1941 and 17th March 1941 of Balawant Bhimra Mulgund of Hubli, and, Irrangouda Buddangouda Patil, in Badami Taluka, District Bijapur.

Opinion, dated 30th June 1941 of the Commissioner,S.D. and Member, Bombay Revenue Tribunal.

Opinion, dated 12th July 1941 of Dewan Bahadur C.M.Gandhi, Non-Official Member,Bombay Revene Tribunal.

Opinion,dated 16th July 1941, of Sir Govind Madgavkar, President,Bombay Revenue Tribunal.

O R D E R.

These are two appeals, one by Balawant Bhimrao Mulgund of Hubli, and the other by Irrangounda Buddangouda Patil, of taluka Badami, district Bijapur, against order No.W.T.P.670, dated 17th December 1940 of the Collector of Bijapur, directing the recovery of Rs.118/- as Potgi to the officiator.

2. The relevant genealogies of the families of both the appellant and respondent are as follows:-

Appellants family.

Hanmantgouda.

- Ningangouda
  - Hanmantgouda(2)
    - Bhimangouda
    - Rindawa(daughter).
      - Bhagawa(grand daughter)(6)
- Basangouda
  - Buddangouda
    - wife Mallawa (3)
    - Buddangouda (adopted son) (5)
      - Irangouda (appellant)(7).

Respondent's family.

Appaji.

Balaji(4)

Gururao.

- Subrao.
- Anant
  - Bhimrao
    - Balawant(adopted)respondent.

3. Mumraddikop, taluka Badami, district Bijapur is an unsettled village of class II. The five patilki Kadim inam lands of the village are in the possession of Balawant Bhimaji, a parai to the watan family. Irrangouda Buddangouda Patil one of the two 8 anna sharers of the watan applied to the Prant officer, S.D., Bijapur, on 1st December 1936 for restoration of the lands under section 9(1) of Hereditary officers Act from the possession of Balawant Bhimaji but the Prant Officer rejected the application on 28th August 1937 on the ground that the matter had been decided in 1900 and again in 1915 and 1918. In appeal the Collector of Bijapur ordered on 10th January 1938 that though restoration under section 9(1) of Hereditary Offices Act was not called for, the question of levying adequate rent under clause (2) of section 9 might be considered and remanded the papers to the Prant Officer for examination on this point. The Prant Officer after recording the evidence, held in his W.L.R.36, dated 5th May 1939 that the case did not fall under section 9 and therefore full rent could not be levied under clause (2) of the section. He however remarked that if it was necessary to increase the potgi of Rs.22/8/- fixed in 1900, according to the Wingate Scale the deficit would be granted. In appeal the Collector held in his W.T.P.670, dated 17th December 1940 that the case did not come under section 9(2) of the Hereditary offices Act but ordered apparently under section 8 that the remuneration of the officiator should be raised to twoce the assessment of the patilki lands i.e., to Rs.118/-. Irrangouda has now applied against this order of the Collector praying that:-

(1) the lands should be restored under section 9(1) or in the alternative.

(2) full rent to the extent of 5 times the assessment of the lands should be awarded under section 9(2) of the Hereditary offices Act.

3. Balawant Bhimaji also has applied that as the Collector held that section 9 was not applicable, the contribution cannot be raised in excess of the watan land emoluments i.e., the differences between the full assessment and the mamul judi (Rs.59 - Rs.24 = Rs.35).

4. Mallawa w/o. Buddangouda relinquished her half share in the watan to Hanmantgouda the other sharer on 20th April 1846 and on the same day intimated the fact to the inamdar of the village. Hanmantgouda sold the whole watan including office, lands, house etc., on 20th December 1855 to Balaji Appaji ancestor of the present Balawant Bhimaji for Rs.40/- as he was unable to make wahiwat of the lands, pay judi and render service of patilki. Inspite of the dictum of Mr.Harvey it seems impossible to consider it proved that the consideration was inadequate. From memo. No.678/1856 dated 19th November 1856 of the Mamlatdar of Badami, it appears that Hanmantgouda intimated the sale to the inamdar immediately and the inamdar forwarded the intimation on 7th January 1856 to the Collector through the Assistant Collector, who after inquiry Sanctioned the sale and permitted Balaji Appaji to hold the watan, pay judi and perform service on condition that the should surrender them when required to do so. A Kabulayat was also executed by Balaji Appaji on 18th November 1856. This fact is again confirmed by the barnishi extract of 1873 which seems to be a reply to an application of Buddangouda s/o Buddangouda for restoration. All these facts were noticed in the hak inquiry in 1888 where in the then Assistant Collector refused to recognize the sale of the watan andheld that the right of service must remain with the original family. This order was confirmed in appeal by the Collector in 1891. In 1900 Bhagawa another 8 anna sharer in the Watan applied to the Assistant Collector for restoration of the lands but the Assistant Collector refused the request on the ground that there was no fraud and that the order of 1888 to pay potgi out of the profits of the watan lands was equitable. The Collector sanctioned potgi according to scale on 15th June 1901. Again in 1915 and 1918 applications for restoration were rejected by the Assistant Collector.

5. Having regard to the fact that the Collector only recognized the alienation conditionally, we do not think that the finding of the Prant Officer in his No.W.L.R.36, dated 5th May 1939 that the alienation of the lands was made with the consent of the Collector is correct. We think that the case falls under section 9 of the Act.

6. The case does not fall under section 8 as the alienation was made to a nonwatandar before the Hereditary Offices Act without a civil court decree. Government Resolution, Revenue Department, No.5603, dated 5th June 1908 no longer applies in view of the decision in Tarabai vs. Murtacharya, XLI Bom.L.R.924. These Kadim inam lands in the unsettled inam village are assigned under section 23 of the Hereditary offices Act and if the case falls under section 9(of the Hereditary offices Act)the Collector can order restoration of the land only if the condition of the rules in Phadnis. Watan Act Part I, page 69, are fulfilled. It does not seem that there was fraud or inadequate consideration in this case. The alienation is so old that an order to levy rent is in any case preferable. The remuneration of an officiator in cash should be at least the amount fixed by the Wingate Scale and need not therefore be limited to the scale. Government orders in Government Resolution, Revenue Department, No.454, dated 19th January 1905 are that when Government pays no cash remuneration except what the officiator gets from the lands, the person in possession is liable to pay to the extent of the full rental of the land. In Government Resolution, Revenue Department, No.7101, dated 11th June 1917, Government ordered contribution up to the full proceeds of the land. Balawant Bhimaji contends on the strength of Government Resolution, Revenue Department 1018, dated 30th January 1907 that the contribution should not exceed the watan land emoluments. But in that case, the inamdar of the village was the representative watandar and remuneration was to be paid to the deputy appointed in place of the representative Watandar. This Government Resolution is not therefore

applicable to the present case. In B.R.T.O/97 dated 4th April 1941, it has been held that it is not necessary to limit the contribution to what should be leviable under the Wingate Scale and the Collector can raise it. The contention of Balawant Bhimaji also therefore fails.

7. We are of opinion that the case falls under section 9 of the hereditary offices Act. The order of the Collector was correct. Both the appeals are dismissed.

G.D.Madgavkar,
President,
Bombay Revenue Tribunal.

E.W.Perry,

Commissioner, S.D. and
Member, Bombay Revenue Tribunal.

C.M.Gandhi,

Non-official Member,
Bombay Revenue Tribunal.

23 Ch.

In the Court of the Bombay Revenue Tribunal,
Bombay.

Applicant:- Balwant Bhimarao Patil of Hubli.

Opponent:- Irangouds Buddangouds.Patil of Mamraddikop Taluka Badami.

1. The applicant presented a review application to the Joint Secretary and Assistant Commssioner,Southern Division,Belgaum on 15th October 1941. The receipt of this application has been acknowledged by the Secretary and Revenue Assistant Commissioner uner No. B.R.T.258,dated 6th November 1941.

2. In the above application, the applicant had made a request to the stay of the execution of the Bombay Revenue Tribunal order under Regulation No. of the Bombay Revenue Tribunal Regulations.

3. Though it is more than a month, the applicant has not been informed of a stay having been given in the matter. The applicant, therefore, begs leave to request the Commissioner to grant an early stay of the order in review.

4. The applicant further begs to add that the following principal documents,rules and laws may be considered at the time of forwarding the papers to the President,Bombay Revenue Tribunal with his opinion on the review application:-

Documents to be considered are:-

1) Village Form No.1)
2) Inam Register.) in file No.1.
3) Extract from Watan Register of 1870 certified copy produced with the review application.

5. Of the three documents,Nos.1 and 2 will show that after the death of the Alienor,Hanamantgouda,in 1863,the Collector started the heirship enquiry and registered Balaji Appaji's name in both these registeres as holder of the Watan lands sold by Hanamantgouda under the then rules.

6. Further the third document, the Watan Register will show that the Collector, as per orders in Government Resolution, No.4779,dated 3rd November 1869 registered Balaji's name as Sole Representative Watandar Patil of the village in place of the

deceased Hanmantagouda. These facts will convince the Commissioner, that the consent of the Collector was final and not conditional as now held by the Bombay Revenue Tribunal. No such condition is embodied in any of these documents. It appears that such an opinion was formed on the agreement and the order of the Mamlatdar, Badami, of 1856. These two documents became null and void after the death of Hanmantgouda, as the Collector held the heir ship enquiry of Hanmantgouda and after the usual enquiry registered Balaji Appaji's name as the alienation of the Watan Lands together with the right of service was valid under rules 19 and 20 of the Regulation 16 of 1827 and Act II of 1843.

7. Even during the life time of Hanmantgouda the agreement was never acted upon by entering the same in the Revenue Records. It was not necessary for the Collector to get such an agreement executed during his life time as the alienation by Hanmantgouda was valid, please vide notes below section V page of Watan Act.

8. The three documents mentioned above are most important Revenue Records. Therefore, the applicant's ancestor's name was rightly registered by the Collector in all the Revenue Records with his full consent. The case, therefore, does not fall under the perview of Section 9 of the Watan Act as now held by the Bombay Revenue Tribunal.

9. As regards the levy of Rs.118/- as potgi the Government Resolutions relied upon by the Bombay Revenue Tribunal are not applicable since one of them relates to Koli watan and the other because the applicant's ancestor was also given a Huk in 1870. Government Resolution, No.1018 of 30th October 1918 clearly applies to the facts of the case and as opined by the then Commissioner, Southern Division, the Collector cannot levy more than the difference between the Judi and the assessment. The rules in the Survey Settlement Manual Part II are strictly to be followed in fixing the remuneration of the Officiator. These points, the applicant begs, may kindly be considered at the time of giving his opinion by the Commissioner.

Sd/-
3rd December 1941.

Watan Register of Patils and Kulkarnis as to the rotation and way in which they are to perform service of Mumaraddikop Taluka Badami sanctioned in Huzur orders of 6th November 1867 received in G.R. No.1869 of 3rd February 1870.

Names of the villages.	Class of watan.	Names of persons having right of service	The share of the shareholders in a rupee Rs. As. P.	The share as decided by A.C.	Rotation of service: Turn	Rotation of service: Year in which hakdar to serve.	Rotation of service: Service heredi-tary in one family.	Changes in the name of holders.	A.C's order.	Remarks.
Mumaradi-kop. Sammat Eewoor.	Patilki	Balaji Appaji Patil	1				There is wahivat of perform-ing service constantly in one family	Balaji Appaji deceased son and heir Gururao Appaji as per order dated 21-8-1873	19-12-1873 Sd. Aval karkun.	There are no Hussadars and Takkhindars hence he is performing both Mulki and Police Patilki service personally.

27

27 51

Ex. III, p. 29.

To

Shrimant Ramachandra Naik Desai
of Paragana Badami of Inam Village
Mumaraddikop.

I, Mallava Kom Buddangauda Patil of Inam village Mumraddikop do hereby pass a Rajinama as under :-

Myself and Hanamantgauda Bin Lingangauda Patil ~~were~~ are each an eight anna sharer in the Patilki Watan and Service and other Babs and Huqs and we are up to this time enjoying the same on payment of Judi and performing Patilki Service. Now my husband Buddangauda is dead. Moreover, the Patilki lands have become fallow and I have no issues. Therefore, I am unable to continue to remain in this village and continue to do Government service and hence I hereby relinquish my share in the Patilki service and Watan and other Huq-Babs in the name of Shrimant Hanamantgauda Bin Lingangauda Patil. My share in the Watan may be continued to Hanamantgauda and Judi recovered from him. I and my heirs have no right over this Watan.

Dated. 20th April 1846.

Written by Jivaji Ganesh Patil.

X Thumb impression of Mallavva Kom Buddangauda attested by Jivaji Ganesh Patil.

Witnesses . - 1. Balaji Shiddo Kulkarni
2. Siddappa Irakal.

Attested by Balaji Shiddo Kulkarni.

+.L T.., p 53

29

Copy of the Sale deed.

To

Balappa Mulgund of Ron,

Taluka Badami.

I, Hanamantgauda Bin Lingangauda Patil of Mumraddikop, do hereby execute sale deed as under :-

In the said village I own Sarva Inam and Judi Inam lands. I have no male issues or any heirs and have grown very old and so I am unable to make wahiwat of the lands and pay Judi and render Government Service. Therefore I hereby sell of my own free will the above watan lands, house and the right of service to you for Rs.40/- as described and detailed below :-

Particulars of the property sold.

1. Sarva Inam lands.	Mar.	No.	Acres	Gunthas	As.
	½	4	18¾	4	1
	¼	14	8¾	2	1
	¼	30	7¾	1½	3½
	1	3	35¼	7¾	1½

1. Judi Inam lands.	Mar.	No.	Acres	Gunthas
	¾	35	19¾	8¾
	¼	36	6¾	-
	1	2	26½	8¾

1. My Patilki house in the village including open space.

1 Aya, Baluta and other Huq Babs.

1 Right of honour, Arati, Kalas and Tambool.

---

5. In all five items.

You, yourself, your sons, and grand-sons should make wahiwat of the above mentioned five items. I have no rights whatsoever in this Watan.

Dated 20/12/1855.

Written by Balaji Shiddo Kulkarni.

X of Hanamantgauda Bin Lingangauda Patil.

attested

attested by Balaji Shiddo.

Witnesses:- 1. Khando Bhimaji Patil of Dhanak-
Shirur Inam village.

2. Timmaji Rudrappa Kulkarni.

3. Irappagauda Mallappagauda Patil
of Jakkanur.

4. Siddappa Irakal of Mumaraddikop.

KLS.
26/

Mumarddikop.

Fin II, p 21

In this case Bhagawa kom Bassangowada applies for the restoration of certain patilki lands of the Inam village of Mumarddikop taluka Badami now in the possession of Gurrao Balaji.

The land is acquired for the remuneration of the officiator. There is no other land and no potgi. It was alienated in the year 1865 by the appellant's father for a consideration of Rs.40/-. The transaction was immediately communicated through the Mamlatdar to the Collector (of Belgaum) and there was no fraud. The land has since been in the possession of the alienee's family who performed service up to 1888, when at the framing of the Watan Register the name of the present applicant and her co-sharer were entered and the watan family has since performed service without remuneration.

It is stated that in 1888 Mr. Henocy , the Assistant Collector ordered that the officiator should be paid scale potgi out of the profits of the land.

This compromise appears to be agreeable to both parties and seems to me to be the simplest way of settling the case.

The profits are Rs.35 after deducting Rs.24 judi paid to Government. Without dusturbing the possession of the land I order that the officiating patil for the time being should be paid potgi according to the usual scale from the profits of these lands now in the possession of the opponent.

Sd/

Asstt. Collector.

30-10-1900.

KLS. 26/6

Fk I, p. 29

Copy was applied for by Irangouda Patil Mummaraddikop on 6th January 1937. It was ready for delivery on and it was delivered on 12th January 1937
sent by post

Mummaraddikop Patelki Register.

O R D E R.

Up till 1855 the land and right of servi[illegible]e in the possession of two men named Budangouda and Hanmantgouda. In 1855 one Gururao Balaji a Brahmin bought the watan from Hanmantgouda bin Lingangouda and has enjoyed it since then. The sale of the watan was illegal under the Regulation of 1827 and I decline to recognize it. In any case the consideration is quite insufficient being 40 Rs. only for land houses and right of service. The right of service must remain with the families who enjoyed it before 184[illegible] There is a service in the two branches and each seems to have an 8 annas share. The heir of Hanmantgouda is his granddaughter Bhagawa as the daughter of Hanmantgouda. Rindawa died before the amending act of 1886 was passed as the law now stands the daughter takes an absolute right in the property. The heir Budangouda is his adoptive son Budangouda whose adoption has been sanctioned by the Collector and he will have the 8 annas share in this family. It is impossible to say which family is senior but Hanmantgouda served latest and the first turn will go to Budagouda Register under Section 28.

1. Budangouda Budangouda 8 annas
2. Bhagawa kom Basangouda 8 annas representative watandar to serve in the above order in successive periods of 5 years each one officiater.

Sighed. W.L.Harvey,
Ag. 2nd Asstt. Collector.

Bijapur
31-10-88.

.-------.

F I N A L O R D E R.

Fk I, p. 33.

The claim put forward by appellant No.2 Gururao Balaji rest entirely on the deed of sale, Ex.3. Setting aside the fact that the sale must probably be held invalid under Section 20, clause 2, of Regulation 16 of 1827, and under Section 5 of Act III of 1874, the purchaser Balaji on the 18th November 1856 passed a distinct agreement that he was to hold the Watan and do service only during the lifetime of the vendor or until Government should demand it back, and this shows distinctly that the sale was not an outright sale for more than lifetime of the vendor. Taking this in connection with the Sections referred to, the mere fact that possession has some how remained with the purchaser since the expiry of the intended period cannot be taken to establish rights which he is not entitled to. I consider that the Assistant Collector rightly declined to recognize the present appellant's claim. I do the same and I reject his appeal.

As regards appellant No.1 Budanagouda, he has produced no additional evidence; the decision of the Assistant Collector as regards him appears to be correct, as far as can be decided from such evidence as was placed on record also; and therefore his appeal also is dismissed.

Bijapur.
4th May 1891

Sd. J.F.Fleet,
Collector.

Below Mamlatdar's report stating that the applicant did not appeal so it appeared that she had no mood to have any enquiry into her application which may be filed. Reply of the Asstt.Collr. File I, p.73

Reply of the Asstt.Collr.

The proposal of the Mamlatdar to file the application is accepted. The applicant should be informed accordingly and the papers returned.

Sd. x x x
Assistant Collector, S.D.

3
444444

Order passed by the Assistant Collector, S.D., Bijapur in connection with restoration of Gondaki lands of Mumaraddikop one Buddanagoud Buddanagouda Patil. File I p.75

Reply. The applicant has been informed that nothing can be done about his application, so this may be filed in your office. Sd. x x x

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Below W.L.R.36 of 1937

Read papers produced by both parties
Heard arguments of Mr.Devale pleader on behalf of opponent and of Mr.Kagal pleader on behalf of applicant. File I p.89-91

ORDER.

The applicant states that the lands in question are patilki lands assigned for remuneration of the officiator and have been alienated to the opponent's ancestors who are strangers to the Watan. He therefore requests that the lands should be restored under section 9 of the Watan Act.

The opponent on the other hand says that the lands have been given by the ancestors of the applicant to his ancestors by a registered sale deed long long ago before the introduction of the Watan Act i.e., in the year 1855, and since then he is in peaceful enjoyment of the lands. He further states that efforts were made in 1900 by the ancestors of the applicant for restoration of these lands. Orders were passed after detailed enquiry and the Collector ordered to pay potgi of Rs.22-8-0 to the officiator and since then he is paying the said potgi. Similar efforts were made for restoration in the year 1915 and 1917 by Bhagava and Budangouda the fathrer of the applicant for restoration of these lands. Their applications were also rejected. He further says that he is in the undisturbed possession for more than 82 years and the name of his ancestors has been entered by the Collector in Revenue records. The then Assistant Collector has remarked that there was no fraud in the transaction. The alienation being prior to the passing of the Watan Act and there being no fraud, he says, section 9 of the Watan Act does not apply.

As the matter has been once decided by this office the question cannot be reopened now. The opponent if so advised, may approach higher authorities. The application is therefore rejected.

28-8-1937.

Sd.
District Deputy Collector, S.D.,
Bijapur.

1

No. xxxxxxx
10th January 1938

No.

No.W.T.P.-577.
10th January 1938.

Heard Mr. Kagal
~~Received~~ Read the papers in the case.

The learned Prant Officer has refused to interfere as the question has once been decided. Now as regards the decision of 1901 the agreement was between Bhagowa the Rep.Watandar of the other eight anna share hold who really is not an ancestor of the applicant though descended from the same ancestor. As regards the orders of 1915 and 1917 they do not appear to have been passed after taking evidence.

There is another aspect of the case which has not apparently been considered. Though restoration may not be called for under section 9(1) after this lapse of time. There is nothing to prevent the Prant reconsidering the question of levying an adequate rent under section 9(2). The land is 69 acres 7 gunthas the area assessed at Rs.59/- is fairly good land as lands in this district go and yet the rent is only Rs.22:8:- The papers are therefore sent back to the Prant to examine the case again particularly to see if there is justification in altering the full rent and if there is a case to pay a reasonable rent.

Sd.
Collector.

10-1-1938.

Proceedings held before K.P.Mathrani, Esquire, I.C.S., in the matter of application by Iranagouda Buddangouda Patil for restoration of certain patilki Inam lands of Mamraddikop, Taluka Badami from Balawant Bhimrao Mulugund of Dharwar by Watmukhtiyar S.B.Laxmeshwar, Treasury Head Karkun Hubli.

Read.

Mr.Harvey, the Assistant Collector's order dated 31-10-1888

Collector's (Mr.Fleet's) appeallate order dated 4-5-1891 in appeal Nos.97 and 98 of 1888-89 and the papers in connection with the framing of patilki watan register of Mamaraddikopa.

Assistant Collector's order dated 30-10-1900 and the papers of the case in the matter application of Bhagawa Kom Basangouda for restoration of the lands.

Written arguments of Mr.Kagal, pleader for the applicant.

Written arguments of Mr.Guttal, pleader for the opponent.

ORDER.

No.W.L.R.36.

The applicant Irangouda Budangouda Patil of Mamradikoppa appealed against the order of the Prant Officer, S.D., dated 28th August 1937 in which the Prant Officer refused to interfere with the existing state of affairs and referred the applicant to higher authorities. In appeal the Collector ordered that though there might be no case for restoration of lands under Section 9(1) of the Watan Act there may be case for levying adequate rent under Section 9(2) of the Act. He therefore sent back the papers to the Prant Officer to see if there was justification in altering the full rent and if there was a case to levy reasonable rent.

The facts very briefly are as follows:-

S.No.

S.No.	Area.	Assessment.
5	18-16	19-0-0
11	9-21	9-0-0
21	8-25	7-0-0
32	8-17	7-0-0
35	23-28	19-0-0
	68-27	61-0-0

The marginally noted lands belong to Patilki watan of Mamaraddikopa. In about 1845 the watan lands and right of service vested in two branches of the family represented by Budangouda and Hanmantgouda. In that year Buddangouda died leaving behind him his widow Mallawa who relinquished her share in the lands and the right of service in favour of Hanmantgouda. After 1845 Hanmantgouda alone was enjoying the lands.

In 1855 Hanmantgouda sold the lands to one Balaji ancestor of the opponent in this case for a sum of Rs.40/-. Since then the matter has gone before the then Assistant Collectors and Collectors a number of times and the lands have not been restored to the applicant or his ancestors inspite of their numerous applications.

Thus Mr.Harvey, Assistant Collector in 1888 while framing the watan register permitted the opponents' ancestors to continue in possession of the lands and ordered the scale potgi to be paid to the officiator.

This order was confirmed in appeal by Mr. Fleet, the Collector in 1891.

In 1900, however, the other Representative Watandar Bhagawa applied for restoration of the lands to the Representative Watandar but the then Assistant Collector refused restoration of lands on 30th October 1900 and directed that applicant should receive scale potgi and perform service. On recommendation of the Assistant Collector, the Collector sanctioned a potgi of Rs.22-8-0 to be paid to the officiators and since then the amount has been paid to officiators through the Mamlatdar of Badami.

Since that date the Representative Watandars have applied on two occasions for restoration of lands. Thus in 1915 the restoration petition was rejected and papers ordered to be filed. In 1918 the applicant did not produce any evidence etc., and so the application was dismissed.

The applicant during the course of the present inquiry has produced many papers and documents to show that the alienation was not legal and has suggested that action under Section 9(1) for restoration of lands may be taken. The lands have been in possession of the opponents now for over 83 years - the possession has been recognised on a number of occasions and my predecessor also has refused to entertain the application. The Collector also has ordered to enquire if enhancement of amount paid at present is necessary. Under these circumstances I do not consider it necessary to go into the merit of the case for restoration at present. Such a long possession recognised by Government and continued unobstructed cannot be interferred with at this stage.

The second question therefore arises whether action under Section 9(2) is called for and study of the wording of that section is necessary for that purpose.

For considering the action under Section 9(2) it is necessary to see if the conditions under section 9(1) are fulfilled. There are four conditions that must be satisfied before action under that section can be taken.

(1) The alienation must be before the passing of the Watan Act.

(2) It must be otherwise than by virtue of or in execution of a decree or order of any British Court.

(3) It must be without the consent of the Collector and transfer of ownership in the Revenue Records.

(4) The alienor must not be a watandar of the same watan.

There

There is hardly any doubt about 1st, 2nd and 4th conditions. The alienation was before the passing of the Watan Act (in 1855). It was otherwise than by virtue of a decree or order of a British Court and the alienee is not a watandar. The point therefore to be determined is whether the alienation was without the order of the Collector and without transfer of ownership into the Revenue Records. There is hardly any doubt that the transfer of lands has been entered into the Revenue Records. The name of the alienee is entered in the Watan and other registers.

The question therefore arises whether there is sanction of the Collector to the alienation. Now there is little direct evidences on that point. It is stated by the opponents that the Collector of Belgaum sanctioned the sale and so name of the alienee was entered in the records. But no evidence of such explicit sanction is forthcoming. I do not think however that any such explicit sanction is essential to override the provisions of that section. The fact that the alienee was allowed to be in possession by Messrs. Harvey and Fleet in 1888 and 1891 and that the restoration was refused and only potgi granted shows that there was implied sanction of Collector (and Assistant Collector) at least. Further the fact that name of the alienee has continued in the records for all that length of time strengthens that presumption. Therefore it is seen that the 3rd condition of Section 9(1) is not fulfilled and as such no action under Section 9(2) is called for.

The order of 1900 is particularly important in coming to the conclusion; for in 1900 regular proceedings were held and restoration was refused. If the Assistant Collector had deemed it necessary he would have taken action under S.9(1) or if he did not consider the restoration of land desirable he would at least have granted the full rent under section 9(2) of the Act. But he did not do so. Instead he granted potgi to the officiator, presumably under section 8 of the Watan Act. Therefore since the rent was not fixed under section 9(2) it cannot be enhanced under that section too. I do not therefore see any reason to grant full rent under that section.

Lastly question however arises whether Rs.22-8-0 is adequate remuneration for the officiator. This potgi was fixed in 1900 after due inquiry, and according to the scale. It is not shown whether circumstances have changed - presumably not. If however, it is shown that according to Wingate scale the remuneration of the officiator comes to more than Rs.22-8-0 the deficit will be granted.

Sd.
Assistant Collector, S.D.,
Bijapur.

Camp: Bijapur.
5-5-1939..

True Translation.

To

File I, p. 241

The Rani-Sarkar:-

Kabulayat of Balaji Appaji Mulagund residing at Ron, in the said Mahal, Taluka Badami, witnesseth as follows:-

The Gowdaki lands of Hanmantgowda bin Lingangowda of Mamraddikop, Inam Village, in the above Taluka are as follows:-

Amount	Fathoms.	No.	Acres
Rs.51-6	Sarva-Inam 1.	3	35-17-13 1/2
Rs.51-6	Judi-Inam 1	2	26-28-12.
Rs.102-12	2	5	62-6-9 1/2.

The said Hanmantgowda has passed a writing to me, that he is unable to pay the Judi of Rs.19, and enjoy the lands and perform the service, and that I must enjoy the said lands and pay

pay judi and perform service. Hence I agree to enjoy the lands, and pay Judi and perform service during the life time of the said Hanmantgowda or till the Government be pleased to resume. After the death of the said Gowda or whenever the Government be pleased to resume the watan, I hereby undrtake to deliver the same. So sayeth, the Kabulayat.

18-Nov-1856.

Sd. Balaji Appaji Mulgund (Marathi)
Witnesses.

1) Ramchandra Narsinha Kulkarni Ktoikal
2) Timmaji Jivaji Mutalik-deshpande
Parghana Badami.
Sd. Babji Vittal Anna (Mamlatdar)

678/1856.

File T
p. 249

From the Taluka Office Badami.
To
Kabulayatdar, Balaji Appaji Manasgi of Mulgund residing at Ron, within the Paragana Badami, it is hereby informed that:

Hanmantgouda bin Ningangouda of Mamaradikop in the said taluka has intimated to the Desai of the said village that he is unable to pay the judi and perform the service by means of enjoying the lands, and that he has surrendered the same to him and further that you should be appointed to perform the service and made to pay judi and in as much as the said Desai has forwarded the same with his letter dated 7th January, to the 1st Huzur, the application No.40 of this year is finally disposed of, after recording statements and by the Subhe- Shara (Collector) that the said whole Watan of Hanmantgouda is delivered to you and that you should pay Judi and perform service and the village officers and Desai are informed by Takiti accordingly. Hence you should take possession of the whole Watan of Hanamantgouda and perform service and pay judi.
19-11-1856.

Sd. Balaji Vithal,
Ag. Mamlatdar.

P.S.

The said Watan as per order of Subhe Shara (Collector) is hereby given to you as you have passed a Kabulayat and the same will be surrendered when so required.

Dated as above..

SA26/15

39

No.W.T.P.-670.
Office of the Collector of Bijapur.
Camp Bagewadi, 17th December 1940.

Jud. Bk. 716
p. 45-47

Parties:-

1.Mr.Irangouda Buddangouda Patil of Mumaraddikop taluka Badami.) Appellant.

1.Mr.Balawant Bhimrao Mulgund by his Vat maktyar Mr.S.B.Laxmeshwar, retired Treasury Head Karku, Hubli, (Torvi Galli,Hubli).) Respondent.

READ:-The appeal petition dated 20th July 1939 from the appellant against the order of the Prant Officer, S.D.Bijapur dated 5th May 1939 in the matter of -

S.No.	Area. A.G.	Assessment. Rs.As. P.	Judi. Rs.	
5	18-16	17-0- 0		restoration of Patilki Inam lands specified in the margin.
11-A	9-18	9-0-0	24-0-0	
21	8-25	7-0-0		
32	8-17	7-0-0		
35	23-28	19-0-0		
	68-24	59-0-0	24-0-0	

Pot kharab 21

69-5

of Umaraddikop, taluka Badami under the provisions of the Watan Act.

READ:- The Prant Officer,S.D's endorsement No.W.T.P.-670 of 18th August 1939.

Heard:-Mr.L.H.Nagal,pleader for appellant.
Mr.G.G.Guttal,Pleader for respondent.

Read:- This office back reference No.W.T.P.-670 of 28th May 1940 and Prant Officer's reply No.W.T.P.-670 of 27th September 1940 received on 28th September 1940 and the papers of the case including Haq enquiry proceedings.

O R D E R.

The relevant genealogies of the families of both the appellant and respondent are as given below:-

Appellant's family.

Hanamantgouda.

Ninganagouda

Hanamantgouda (2)

Phimangouda

Rindawa (daughter).

Phagawa (grand daughter)(6).

Basangouda

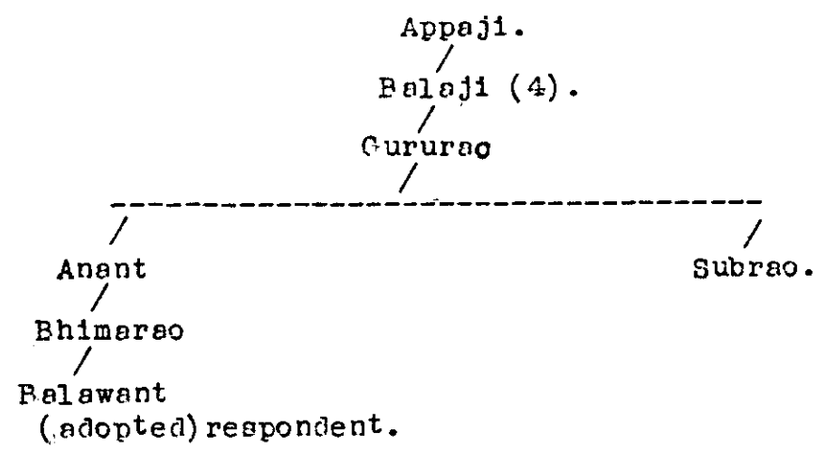
Buddangouda (1)
wife
Mallawa(3)

Buddangouda
(adopted son)(5)

Irangouda
(appellant)(7).

Respondent's--

Respondent's family.



The Patilki right of service and the service lands mentioned above were held by two branches of the appellant's family represented by Budangouda and Hanamantgouda (Nos.1 and 2) before 1845. After the death of Budangouda (1) his share of the watan was held by his widow Mallawa(3) who relinquished her share in favour of Hanamantgouda (No.2) who thus became the sole holder of the watan.

2. In the year 1855 this Hanamantgouda(2) sold the watan (Patilki right of service, lands etc) for Rs.40/- to one Balaji Appaji(4) the ancestor of the respondent who passed a Kabulayat to Government on 18th November 1856 to the effect that he would enjoy the watan during the life time of Hanamantgouda or until Government demanded it back.(Page 123). From the document (copy of Barnishi) filed at page 95 in Haq enquiry proceedings (file III) it appears that the name of the purchaser Balapa was entered as per Belgaum Collector's sanction which however appears to be a conditional one. At the time of Haq enquiry held in 1888 (page 53, file III) Budangouda(5) and Bhagawa(6) were recognized as holding 8 annas right of service each. In the year 1900 when Bhagawa(6) sought for restoration it was held by the then Assistant Collector on 30th October 1900 (pages 21 and 22, file II) that the lands could not be restored since they were alienated in 1855 but that the officiating Patil should be paid potgi according to scale out of the profits of these lands in possession of the respondent's family, which are asigned for the remuneration of the officiator. Restoration of the lands was also refused in 1915 and 1918 (pages 37 and 38, file I). In the year 1937 Mr. Irangouda(7) the present appellant again applied for restoration which was also refused -

refused by the then Prant Officer on 28th August 1937(page 45, file I).In appeal against this order the Collector Mr.Kothawala sent back the papers to the Prant Officer on 10th January 1938 (page 61,file I)with the following remarks:-

"Though restoration may not be called for under section 9(1) after this lapse of time there is nothing to prevent the Prant reconsidering the question of levying an adequate rent under section 9(2).The land is 69 acres 7 gunthas assessed at Rs.59/- i.e.,fairly good land as lands in this District go and yet the rent is only Rs.22-8-0.The Prant should examine the case again particularly to see if there is justification in altering the full rent and if there is a case to levy a reasonable rent".

After further enquiry the Assistant Collector Mr.Mathrani held that there was no case under Section 9(2) to levy full rent for the reasons given in his order dated 5th May 1939 (page 109 to 111).He however,stated,that if the remuneration of the officiator comes to more than Rs.22-8-0 the deficit will be granted.The present appeal is against this order of the Prant Officer.In view of the orders passed by the Assistant Collector in 1900 granting only *hotgi* according to scale presumably under section 8 refusing restoration after holding regular proceedings,and in view of the reasons given by the Assistant Collector in his order appealed against with which I agree,I hold that the case does not come under the purview of Section 9(2) of the Watan Act.But the remuneration of Rs.22-8-0 fixed so far back as 1901 is inadequate taking into consideration that there are 5 lands assessed at Rs.59/- assigned towards the emoluments of the officiator.I,therefore,direct that a contribution of twice the assessment should be paid to the officiator by the Respondent who holds the assigned property.The assessment is Rs.59 and double this comes to Rs.118 and it should be paid to the officiator in lieu of Rs.22-8-0 which was ~~hereto~~ hitherto

being -

being paid."

Sd/-

Collector of Bijapur.

To

The Prant Officer,S.D.,Bijapur,with compliments,with the papers of the case in 3 files.
(file No.I Pages 1 to 289).
(file No.II " 1 to 24).
(file No.III " 1 to 132).

Copy to parties.

S.No.17 in R.A.'s memo of instructions

43

Appeal against order No.W.T.P. 682, dated the 8th July 1940 - of the Collector of Bijapur.

No.O/97 of 1941.
Bombay, 4th April 1941.

Read:

Appeal petition, dated nil August 1940 of Bhimrao Jayarao ulkarni of Herkal, taluka Bagalkot, district Bijapur.

Opinion, dated 21st March 1941 of the Commissioner, S.D. and Member, Bombay Revenue Tribunal.

Opinion, dated 31st March 1941 of Dewan Bahadur C.M. Gandhi, N.O. Member, Bombay Revenue Tribunal.

Opinion, dated 4th April 1941 of Sir Govind Madgavkar, President, Bombay Revenue Tribunal.

O.R.D.E.R.

The appeal is against order No.W.T.P.682, dated the 8th July 1940, of the Collector of Bijapur, modifying the Prant Officer's orders.

2. The lands under discussion were assigned for the remuneration of the officiating kulkarni of Govankop under section 23 of the Hereditary Offices Act by the order of the Assistant Collector dated 15th August 1931.

3. The respondent has the right of service as kulkarni in the village for five year periods alternatively with appellant. The orders of Government are that in unsettled and unsurveyed inam villages (like Govankop) kadim inam lands (the lands in question are kadim inam) are assigned for the remuneration of the officiators.

4. The appellant contends that:

(1) Respondent is adequately remunerated for his duties of occasionally serving as kulkarni of Govankop by his holding in other villages.

(2) The assignment under section 23 is illegal and contrary to sections 8 and 73 of the Hereditary Offices Act.

(3) Since the alienation took place before 1874, he cannot be called upon to contribute under section 8 of the Hereditary Act.

5. As to (1). The fact that respondent had a large share in the two khalsa villages by family arrangements has been found -

found proved in earlier proceedings and may be accepted as true.It was also found that the respondent has had no share in the Govankop lands since before 1874(District Deputy Collector,Mr.Moghe's order of 8th July 1909).It was therefore open to the Collector to order under section 8 of the Hereditary Offices Act that the watandar other than the officiator should be liable to contribute to the remuneration of the officiator. On two occasions in the past the Collector refused to exercise his discretion in favour of the respondent,but that cannot be held to preclude his successor from exercising his discretion in the reverse direction for good reasons.

6.The reason is that it has been decided to introduce the record of rights in the village.It is accepted that the record of rights can only be introduced when the officiator is sufficiently remunerated:(Government Resolution 3091 of 15th November 1921).This was the reason for the passing of the order under section 23 and the levy of contribution.The record of rights has not yet been introduced but the kulkarni's remuneration has to be assured before it can be introduced.

7.As to (2).The order under section 23 is legal.The land being unsurveyed cannot be assessed to scale judi.Actually the order of the District Deputy Collector was probably unnecessary since the land in question is anyhow to be regarded as assigned.It must be considered to have been passed ex-major cautela.Moreover,the assignment does not affect the matter of the appeal since the Collector's powers under section 8 apply equally to assigned and unassigned property. The statement in the memorandum of appeal that the assignment is contrary to section 8 is the reverse of the truth.The reference to section 73 is apparently made to suggest that the order of assignment was made without proper investigation.Since the order was passed nearly ten years ago, it is too late to raise that plea.Moreover,the allegation is belied by the proceedings.

8. As to (3).The contention is clearly invalid: see section 8 of the Hereditary Offices Act.

We think the Collector has been somewhat over-

generous -

generous in limiting the contribution to what would be leviable under the Wingate Scale but there is no need to interfere with his order on this ground as he could later raise the contribution, if necessary, and there is no cross appeal on this point.

9. The Collector's order is thus legal ~~xxxproperxxand~~ and proper and the appeal is dismissed.

G.D.Madgavkar,

President,
Bombay Revenue Tribunal.

E.W.Perry,

Commissioner, S.D. and Member,
Bombay Revenue Tribunal.

C.M.Gandhi,

Non-official Member,
Bombay Revenue Tribunal.

GCA26/6

S.No.18 in memo of instructions

Village officers.

No.7651.

Revenue Department.

Bombay Castle, 28th December 1877.

Joint letter from the Committee composed of the officers named in the margin, No.4766-A dated 21st November 1877-Submitting, as directed in Government Resolution, No.6412 of the 26th October 1877, the rules which they propose for dealing with village officers' service lands.

The Revenue Commissioner, N.D.
" " S.D.
The Survey and Settlement Commissioner.

Resolution:- The rules drawn up by the Committee are approved and sanctioned.

- Sd/-

For Chief Secretary to Government.

To

The Revenue Commissioner, N.D.,
The Revenue Commissioner, S.D.,
The Revenue Commissioner, K.D.,
The Survey and Settlement Commissioner, N.D.,
The Survey and Settlement Commissioner, S.D.,
All Collectors, including the Extra First Assistant Collector in charge Panch Mahals,
The Accountant General.

With copies of the rules.

VP/26.6.

Rules for dealing with the village officers' service lands, sanctioned in Government Resolution No.7651, dated 28th December 1877.

DEFINITIONS.

1. "Watan land emoluments" consist of the difference between the original judi or Government charge on the whole lands of the watan and the full survey valuation or assessment thereof for the time being.

2. The "appropriated amount" of the watan land emoluments consists of the sum imposed in the form of an addition to the original judi to meet, so far as it can, the remuneration of the officiator as fixed according to the orders of Government from time to time.

3. The "unappropriated watan land emoluments" consist of that portion of the difference, if any, between the total watan land emoluments at any time and the amount appropriated at any time for the remuneration of the officiator according to the last paragraph.

RULES.

1. The mamul or ancient recorded judi, or the highest recorded ancient payment, whichever may be the higher of these two sums, shall be considered to be the ultimate limit of judi or Government charge upon the service inam watan lands of village officers exclusive of any charge which it may seem fit to Government to impose for the remuneration of the member or members of the watan appointed by Government to officiate, so long as such charge on account of remuneration of service together with the original judi does not exceed the survey assessment for the time being of the whole lands of the Watan.

2. The watan emoluments are liable for the payment of the officiator up to their whole survey valuation as at any time fixed; and any protion of this valuation in excess of the requirements at any time for the payment of the officiator may be appropriated at any future time, if it is in the opinion of Government necessary to increase the sum payable to the officiator.

3. In Government Resolution No.331 of 26th January 1860 it was decided that in commutation of enquiry by the Inam Commission

into .....

into the title on which unappropriated watan land emoluments were held, additional judi of one half the survey assessment for the time being should be levied on the unappropriated amount. It is now clearly ruled that upon its being necessary to add to the remuneration of the officiator or officiators, all such excess watan land emoluments are liable up to the full survey assessment for the time-being. It is, however, laid down that the above half judi is not liable to increase on account of the unappropriated watan land emoluments for the time being attaining an increased valuation under a revision of assessment; but it is also to be understood that such judi may be lowered owing to a decrease in the value of the unappropriated watan land emoluments rendering the judi formerly fixed thereupon more than half their value for the time being, or as above provided owing to a portion of the excess watan land emoluments being at any future time appropriated for the payment of the officiator.

4. The scale of percentage remuneration adopted hitherto for patels shall continue in future. But the increased chauri and potgi or extra allowance proposed for patels by Colonel Francis in his letter No.1613 of 24th September 1874, and sanctioned by Government Resolution No.6141 of 1st November 1875, should be adopted.

5. As regards the kulkarnis, the percentage scale on which they are already paid being found sufficient should be retained both for salary and stationery allowance, as sanctioned in Government Resolution No.6141 of 1st November 1875, paragraph 4, with the modification as regards increased potgi or extra allowance sanctioned in Government Resolution No.991 of the 16th February 1876.

6. In towns and very large and troublesome places an additional payment may be awarded to officiating patels. At present under Wingate's rules an additonal allowance of Rs.10/- is awardable to patels of large places. It is now provided that there shall be three additional classes of such special allowances; the four classes will then stand as follows:-

Class .....

Class IV	Rs. 10
Class III	Rs. 20
Class II	Rs. 30
Class I	Rs. 60

7. The whole emoluments of village officers, whether consisting of salary, potgi or extra allowance, special allowance or stationery allowance are payable form the watan emoluments so far as they are capable of meeting these charges.

8. On revision of assessment, all service inam lands of every head, whether those of village officers or servants, and whether held by officiators or others, shall be liable to pay local one anna cess on their survey valuation in common with all other lands.

.....

English translation of the Kannada Document,

Serial No.5 in File No.I at page 11.

V.F. No.7

Dodda hola Patilki, Village, Mumaradikop

class of Inam (6) +B. Taluka, Badami.

Survey No.35. Kabjedar: Gururao Balaji Patil

Hissa. Guardian * (of minor - natural father - Hanamantrao)

* In the manuscript this portion has been struck off.

Area	A	G
Net cultivable	23	28
Potkharab	0	11
Gross	23	39

	Rs.	As.	Ps.
Assessment,	19	0	0
Judi	-	—	—
Water share	-	-	-

Sd/-Shankar Kulkarani.

Other rights. Rs.24-0-0 Judi is paid to the Inamdars for this survey number and survey Nos.5-11A - 21 - 32 - 35, in all, for each year.

Rights of water, of way etc. nil.

V. F. No.VII A V.F.No.XII

Year	Tenancies and Rent	Area	Mode	Crops and fallows	Area	Remarks
1935-36	Adiveppa Ramanna Kapali, written lease dtd. 1-4-1935 for Rs.65.	23-28	3	Cotton Gram Linseed	17-28 0-20 0-20	
	Ditto on behalf of Balvantrao on the same agreement. Written lease dtd. 13.10.1935.				23-28	

The name of Balvant Bhimarao is entered against this instead of minor Shrinivas whose name is deleted as per Dentry No.69 signature of the officers not made.

Dated: 12.5.1936
Sd/- in Modi script
Illegible

Copying fee 0-2-0
Paper charges 0-0-3
0-2-3

English translation of the Kannada Document, Serial No.8, in File No.II at page 1.

Exh. No.7

I, Bhagavva Kom Basangouda, age 38, caste Lingayat, occupation domestic work, residence Mamaradikop, reply to the cross examination of the defendants as under:-

Goudiki register of Mumaradikop and the Inam register were first in the name of my father Hanamantgouda. After his death they have been entered in my name - as he had no male issues. While my father was alive proceedings were begun regarding the arrears of Judi and in the end it was settled in 1856 that one Mr.Balaji Appaji Mulgundkhar should pay the Government the Judi amount and enjoy the lands and do the service of Goudaki till the life time of my father or till the Government resumes. Accordingly the said Balappa has even execut a Kabulayati in favour of Government. I have produced the true copy of it which was with me. The case may be called for and looked into some time back Balappa died and his son Gurappa is now enjoying the land. And as per Balappa's agreement passed in favour of Government the land has to be restored to my possession(since my father is now dead). I have got sixteen annas hissa in the Goudaki register and I appoint a deputy to do service. As the land is in another's possession and mo potgi (annuity) is paid in cash either by the Government or by the Inamdars one has to do the service without any remuneration. The said lands are given in Inam in lieu of remuneration to the person doing service and the said lands are with the strangers who are not watandars. This is against the Watan act. Though the lands are in his possession before the Watan Act of 1874 came into force it is subject to the condition that he should quit ~~fx~~ after the death of my father or when the Government so directs. Thus there is good reason to disposess the said lands from Mr.Gururao Balaji and give the same in my possession. It is humbly prayed that Government should make an inquiry and

restore the said lands to me.

Dated 15.4.1900

L.T.M. of Bhagavva wife or Basangouda.

Sd/- Illegible.

English translation of the Kannada Document Serial No.10 in File No.II at page 24.

It is sanctioned that Rs.22-8-0 out of the profits of the lands should be paid according to the scale.

Dated 15.6.1901

Sd/- Illegible

Collector.

English translation of the Kannada Document Serial No.11 in File No.I at page 73.

These to be substituted for the copies sent with G.M. No.3724-F/39 dated 30.6.42.

It appears that the applicant Bhagavva kom Basangouda Mumaradikop has no mind to have an enquiry made into her application for the restoration of goudaki lands of Mumaradikop as she did not appear though summons were issued to both the plaintiff and the defendant. The following order is made on the Mamlatdar's report that the application may be dismissed.

Reply:- Your (Mamlatdar's) opinion is accepted. The applicant may be informed accordingly. The case papers should be returned.

Dated. 3.3.1918

Sd/- x x x

Asst. Collector
S.D.

English translation of the Kannada Document Serial No.11 in File No.I at page 75.

Order passed by the Asstt. Collector S.D. Bijapur in connection with the restoration of Goudaki lands of Mumaradikop, one Buddanagouda Buddanagouda Patil.

Reply:-

The applicant is informed that nothing can be done about his application. So this may be filed in your office.

Dated. 12.12.1915.

Sd/- x x x

Asstt. Collector.

Service Register of Lands and cash allowances of taluka Badami district Bijapur

maintained under section 67 of Bombay Act III of 1874.

No.	Name of Village	Government or Inam	Assessment due to Government	Pepulation	Class of Watan
1	2	3	4	5	6
155	Mumaradikop	Inam	266-12-4	327	Geudaki

DETAILS OF WATAN

Name of the Khatedar in Record of Rights.	Survey No. if not surveyed old No.	Area in Acres or Bighas	LAND Assessment.	Old Judi	Less Judi Description of	Less Judi Scale Judi amount	Total Judi	Net income of Inam	Maintenance allowance whether in cash or kind. Amount	Maintenance allowance whether in cash or kind. Source from which payable.	Total of Cols. 15 & 16 & Judi
7	8	9	10	11	12	13	14 -	15	16	17	18
Gururao Balaji Patil	5 of 11	18-16	17-0-0			24		35-0-0			
	21	8-25	9-0-0								
	32	8-17	7-0-0								
	35	23 -28	19-0-0								
	5	68-27	59-0-0								

Sons

Details of watan (continued)

Principal holder of watan		Annawari fixed in the name of the principal holder	Name of the representative Watandar	Nature of Service performed by one family or if by several families by turns, how.	Number of officiators	Land Income	Cash	Total	Order of Govt. under sec.67	Remarks under section 68
Serial No.	Name									
19	20	21	22	23	24	25	26	27	28	29
1	Iranageuda father Buddana-gouda	0-8-0	Irangouda father Buddana-gouda	Each one for 5 years by turns.	one		0-12-0		*	0
2	Bhagavva Kom Basan Gouda.	0-8-0	Bhagavva Kom Basangouda							

+ + This portion is scored out in pencil

Copy ready on 15-10-1922

5-2-23 Sd/- R.S.Firemath
D.D.C.

*+ W.T.N.order from Prant offic sanctioning the adoption of Timmanagouda father-by Bhagavva +

*Prant Order No.WT.N. 152/28-5-42 is made regarding the disqualificatio of Buddanagouda under section 45 of the Watan Act.

Sd/- G.K.Kalkeri
Mamlatdar.

63

: The Adoption of Ningangouda by Bhagavva has been recognised by the Prant S.D. Bijapur in his No. B.D.M. 655/5-8-32. Basangouda Dyavangeuda the natural father of Ningappa is recognised as his guardian

I/C 25-8-1932

Sd/-
Mamlatdar
Recd. 11-10-33.

* Buddangouda died on 24.1.29. His eldest son Irangouda has been ordered by P.O. to be recognised as R.W. in place of his deceased father P's BDM 108
22-12-32.

Mamlatdar.

Id/- x x
3/7/42

59
4

Col 1

Bombay Revenue Tribunal Appeal
(Bijapur).

Chronological Statement of Facts.

pp. 1-11 of B.R.T.file

This is an appeal preferred by Malharbhat Banambhat Pujari and five others of Cholachgud, taluka Badami, District Bijapur to the Bombay Revenue Tribunal against the orde of the Collector of Bijapur, dated 7/15th February 1941 dismissing the appeal preferred

pp.152-153 of file I

to him against the order of the Assistant Collector dated 11.1.40, holding that the

pp.93-94 of file I

pujaris, as managers of the temple were entitle to use the open spaces in S.No.163 for the purpose of worship and ceremonies connected wit

Sketch p.2 -do-

the temple, but they were not entitled to use the land for regular profit, as such use was consistent with the assignment and that they were liable to pay assessment,fine and other penalties under section 61 of the Bombay Land Revenue Code, 1879 for making unauthorised use of the land.

p. 84 -do-

2. The pujaris of Banashankari Devi leased out plots in S.No.163 of Cholachagud standing in the name of the Goddess in the Record of rights, during the fair for pitching stalls and derive rent therefrom.

3. On the allegation of the villagers that the levy of rent on the plots by the pujaris wa illegal as the land as dedicated to the Temple and was not the property of the pujaris,the Prant Officer held an enquiry under section 37

pp. 93-94 File I

(2) of the Bombay Land Revenue Code, 1879 and decided on 11th January 1940 that S.No.163 with all the structures thereon, vest in Government.

4. Against this decision, the appellants on 7th September 1940 filed an appeal to the Collector who dismissed the same on 15th February 1941. pp.112-115 पत्र ५. pp.151-153 File I

5. On the 29th March 1941, the appellants preferred an appeal to the Commissioner, S.D.against the order of the Collector which is now treated as an appeal to the Bombay Revenue Tribunal. B.R.T.File - pp.1-11

Office of the R.L.A.

I agree with the considered opinion of the Commissioner, Southern Division (Mr.Bhide) at page 15 ante. He thinks that the land in dispute vests in the Deity and it has been in the management and possession of the Pujaris of the Deity from ancient times. The Collector (Mr.M.S.Maulvi) and the Assistant Collector (Mr.Evans) hold that the land in dispute vests in Government and was assigned for a public purpose under section 38, Land Revenue Code. It is also pointed out that the ancient Banashankari's temple and the Narayan temple and the structures of the gateway are protected ancient monuments as per Government Resolution,General Department, No.4859, dated 20th June 1927. There is nothing to support the assignment under section 38, Land Revenue Code and it is negatived by the entry in the revenue survey of 1849; and the circumstances under which Regular Suit No.592 of 1929 was compromised weaken the case of the Government's title to the land. It is not necessary, therefore, to prepare the brief and ask the Assistant Government Pleader, High Court to appear before the Bombay Revenue Tribunal. The President, Bombay Revenue Tribunal should be requested to devide the case on merits.

Sd/- P.N.M.

Remembrancer of Legal Affairs.

U.R. to R.D.,No.10225, dated the 23rd December 1942.

"True copy - Original papers being of bad quality - Destroyed."

K J McCarthy

Superintendent,
D Branch, Legal Department.